

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

KEVIN LANG,

Plaintiff,

v.

LENDING TREE LLC, et al.,

Defendants.

:
:
:
:
:
:
:
:
:
:

CASE NO. 5:08-CV-01785

JUDGE GAUGHAN

MAGISTRATE VECCHIARELLI

**DEFENDANT LENDING TREE LLC'S
ANSWER TO COMPLAINT**

Defendant Lending Tree LCC ("Lending Tree"), for its Answer to the Complaint filed by plaintiff Kevin Lang's ("plaintiff"):

FIRST DEFENSE

1. States it is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1.

2. States it is a limited liability company organized and existing under the laws of Delaware with its principal place of business in Charlotte, North Carolina, it is properly registered with the Ohio Secretary of State, and that it operates an online network marketplace that helps match consumers and lenders, with the goal of providing consumers with a competitive advantage when seeking a mortgage loan product, that Lending Tree essentially provides a marketplace that connects consumers with interested lenders that submit competitive offers for these mortgage loan products, that by visiting Lending Tree's website and completing a "qualification form," consumers interested in purchasing a mortgage loan product are able to receive "bids" from up to four lenders, and that consumers may then negotiate directly with each

of the bidding lenders, and if the consumer wishes, close a loan with one of the lenders; and further answering, Lending Tree denies the remaining allegations in paragraph 2.

3. States it is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3.

4. For its response to paragraph 4, Lending Tree restates and incorporates by reference paragraphs 1 through 3 of this Answer.

5. Denies the allegations in paragraph 5.

6. Denies the allegations in paragraph 6.

7. Denies the allegations in paragraph 7.

8. Denies the allegations in paragraph 8.

9. For its response to paragraph 9, Lending Tree restates and incorporates by reference paragraphs 1 through 8 of this Answer.

10. Denies the allegations in paragraph 10.

11. Denies the allegations in paragraph 11.

12. Denies the allegations in paragraph 12.

13. Denies the allegations in paragraph 13.

14. Denies the allegations in paragraph 14.

15. For its response to paragraph 15, Lending Tree restates and incorporates by reference paragraphs 1 through 14 of this Answer.

16. Denies the allegations in paragraph 16.

17. Denies the allegations in paragraph 17.

18. Denies the allegations in paragraph 18.

19. Denies each and every remaining allegation in plaintiff's Complaint, including any allegations in any prayer or request for relief, not otherwise expressly admitted in this Answer.

SECOND DEFENSE

20. States that plaintiff's Complaint fails to state a claim upon which relief may be granted.

THIRD DEFENSE

21. States that plaintiff has improperly joined parties and/or has failed to join necessary and/or indispensable parties.

FOURTH DEFENSE

22. States that plaintiff's claims are barred in whole or in part by a failure to mitigate damages.

FIFTH DEFENSE

23. States that plaintiff's claims are barred in whole or in part by the doctrines of waiver and laches.

SIXTH DEFENSE

24. States that plaintiff's claims are barred in whole or in part by the doctrine of estoppel.

SEVENTH DEFENSE

25. States that plaintiff's claims are barred in whole or in part by the applicable statute of limitations.

EIGHTH DEFENSE

26. States that plaintiff's claims for damages are barred in whole or in part by the limitations imposed by law as to the recovery of such damages.

NINTH DEFENSE

27. States that plaintiff's remedies are limited in whole or in part by applicable law.

TENTH DEFENSE

28. States the damages allegedly suffered by plaintiff were caused solely by the superseding, intervening acts and conduct of plaintiff and/or other persons or parties which intervened between Lending Tree's alleged acts and conduct and plaintiff's claimed damages, thereby barring recovery in whole or in part.

ELEVENTH DEFENSE

29. States that plaintiff's claims are barred by the doctrines of immunity and/or privilege or qualified privilege.

TWELFTH DEFENSE

30. States that plaintiff's claims are barred in whole or in part by the doctrine of unclean hands and principles of equity.

THIRTEENTH DEFENSE

31. States the damages allegedly suffered by Plaintiff are barred in whole or in part by the U.S. and Ohio Constitutions.

FOURTEENTH DEFENSE

32. States plaintiff assumed or incurred the risk of injury, thereby barring plaintiff from recovery in whole or in part.

FIFTEENTH DEFENSE

33. States that any alleged violation of law, which Lending Tree denies, occurred despite reasonable procedures to prevent the occurrence.

SIXTEENTH DEFENSE

34. States the negligence, fault, or tortious conduct of plaintiff, and/or other persons or parties, caused or contributed to cause all, or a percentage, of the claimed damages, thereby barring recovery in whole or in part.

SEVENTEENTH DEFENSE

35. States it reserves the right to assert any and all affirmative defenses and other matters in avoidance that discovery may reveal to be appropriate.

WHEREFORE, having fully answered plaintiff Kevin Lang's Complaint, Lending Tree LLC demands that plaintiff Kevin Lang's Complaint be dismissed with prejudice, that it recover its costs and expenses, including attorney fees, and that the Court grant it such other and further relief as the Court may deem just and proper.

Respectfully submitted,

/s/ David A. Wallace

David A. Wallace (0031356)

Joel E. Sechler (0076320)

CARPENTER LIPPS & LELAND LLP

280 Plaza, Suite 1300

280 North High Street

Columbus, Ohio 43215

(614) 365-4100 (Telephone)

(614) 365-9145 (Facsimile)

wallace@carpenterlipps.com

sechler@carpenterlipps.com

Trial Attorneys for Defendant
Lending Tree LLC

CERTIFICATE OF SERVICE

I CERTIFY that a copy of Defendant Lending Tree LLC's Answer to Complaint was filed electronically on July 29, 2008. Notice of this filing will be sent to the parties listed below by operation of the Court's electronic filing system, and those parties may access this filing through the Court's system.

Robert J. Belinger, Esq.
James A. Zaffro, Esq.
4200 Rockside Road, Suite 101
Independence, Ohio 44131

Attorneys for Plaintiff

/s/ David A. Wallace
One of the Attorneys for Defendant
Lending Tree LLC